

REMARKS

Presently, Claims 1-8, 19, and 20 are pending. By this paper, Applicant amends Claims 1 and 19. Support for amended Claims 1 and 19 can be found throughout the specification, including, for example, paragraphs 8, 9, 47-53, 70-76, and 113-118. Accordingly, Claims 1-8, 19, and 20 are presented for consideration. Applicant respectfully request entry of the foregoing amendments and following remarks.

Discussion of Claim Rejections Under 35 U.S.C. § 103

The Examiner rejected Claims 1-8 and 19-20 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,987,611 ("Freund") in view of U.S. Patent No. 5,801,747 ("Bedard") and in further in view of U.S. Patent No. 6,486,892 ("Stern").

In the Amendment submitted in response to the Office Action mailed August 17, 2009, Applicant argued that Freund and Bedard could not be properly combined as Freund teaches away from client-based filtration. The Examiner responded by asserting that Applicant's claims "are broad enough to cover client based implementations, centrally based implementations, and any combination thereof." And thus, the "details on how each invention may be implemented are irrelevant given the broad nature of the claim."

To establish a *prima facie* case of obviousness, the Examiner must establish that the prior art reference (or references when combined) render all of the claim limitations obvious: "All words in a claim must be considered in judging the patentability of that claim against the prior art." (*In re Wilson*, 424 F.2d 1382, 165 U.S.P.Q. 494, 496 (CCPA 1970); *see also M.P.E.P. § 2143.03*.) Further, the Examiner must clearly articulate reasons why the claimed invention would have been obvious, with some rational underpinning to support the legal conclusion of obviousness, and taking into consideration how a person of ordinary skill would have understood the prior art teachings. (M.P.E.P. §2141). Finally, even if a *prima facie* case of obviousness is established, this can be rebutted by showing that the art, in any material respect, teaches away from the claimed invention. M.P.E.P. §2144.05 (III), *citing In re Geisler*, 116 F.3d 1465, 1471 (Fed. Cir. 1997). For example, it is well-established that "it is improper to combine references where the references teach away from their combination." (MPEP 2145(x)(D)(Emphasis added); *See In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983)). As discussed in

further detail below, the combination of Freund and Bedard do not support a *prima facie* case of obviousness.

Independent Claims 1 and 19

A *prima facie* case of obviousness cannot be supported for Claims 1 and 19 as Freund, Bedard, and Stern fail to disclose all of the elements of these claims and as Freund explicitly teaches away from a combination as recited in these claims. Amended Claims 1 and 19, respectively, recite, “determining within the local area network a content category” and “at least one processor determines within a local area network a content category of an Internet site.” In contrast to these features recited in Claims 1 and 19 and as previously recognized by the Examiner, Freund discloses client based monitoring and filtering. Specifically, Freund states, “the present invention provides a system and methods for client-based monitoring and filtering of access.” See Freund Column 12 Lines 45-48. Freund further states, “in accordance with the present invention, a central filter is not employed.” (Emphasis added). See Freund Column 12 Lines 48-49. Similarly, both Bedard and Stern disclose implementations that amount to client-based filtering. See Bedard Column 3, lines 4-8 and Column 8, Lines 2-6; and Stern Column 4, lines 63-65 (“system 1 is shown to consist of a client 2 on which the guide software application (Guide) 3 resides”). As Freund, Bedard, and Stern all disclose client-based filtering, they do not disclose “determining within the local area network a content category” and “at least one processor determines within a local area network a content category of an Internet site” as recited in Claims 1 and 19 respectively, and therefore cannot support a *prima facie* case of obviousness.

Freund, Bedard, and Stern additionally fail to support a case of *prima facie* obviousness as Freund teaches away from the recited limitations. Speaking of such techniques, Freund states, “such an approach is problematic” because “the centralized nature of firewalls and proxy servers . . . extracts significant performance penalties.” For example “a single server might have to do the filtering work for hundreds or even thousands of PCs or workstations.” This set-up “represents a major bottleneck to overall system performance.” Freund further teaches away from features as recited in Claims 1 and 19 as it states that “centralized filter architectures are missing vital information to correctly interpret the data packets because the underlying protocols were designed for effective data transfer and not for data monitoring and interception.” As Freund teaches that the recited features in Claims 1 and 19 are “problematic,” extract “significant

performance penalties,” create “major bottleneck[s] to overall system performance,” and “are missing vital information to correctly interpret the data packets,” Freund cannot be properly combined with another reference to render obvious all of the features recited in Claims 1 and 19.

As neither Freund, Bedard, nor Stern teach “determining within the local area network a content category” and “at least one processor determines within a local area network a content category of an Internet site,” and as Freund teaches away from such a combination, a *prima facie* case of obviousness cannot be supported by Freund, Bedard, or Stern, individually or in combination, and Applicant respectfully requests that the Examiner withdraw the rejections to Claims 1 and 19.

Dependent Claims

Claims 2-8 and 20 depend directly or indirectly on, and thus incorporate all features of, either Claims 1 or 19. By this dependency, Claims 2-8 and 20 are patentable over Freund and Bedard to the same extent as Claims 1 and 19. Applicant, therefore, respectfully requests withdrawal of the rejections Claims 2-8 and 20.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, early issuance of a Notice of Allowance is most earnestly solicited.

Any remarks in support of patentability of one claim should not be imputed to any other claim, even if similar terminology is used. Additionally, any remarks referring to only a portion of a claim should not be understood to base patentability on solely that portion; rather, patentability must rest on each claim taken as a whole. Applicant respectfully traverses each of the Examiner’s rejections and each of the Examiner’s assertions regarding what the prior art discloses or teaches, even if not expressly discussed herein. Although changes to the claims have been made, no acquiescence or estoppel is or should be implied thereby; such amendments are made only to expedite prosecution of the present application and are without prejudice to the presentation or assertion, in the future, of claims relating to the same or similar subject matter.

Applicant has not presented all arguments concerning whether the applied references can be properly combined in view of the clearly missing elements noted above, and Applicant reserves the right to later contest whether a proper reason exists to combine these references and

to submit evidence relating to secondary considerations supporting the non-obviousness of the methods recited by the pending claims.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

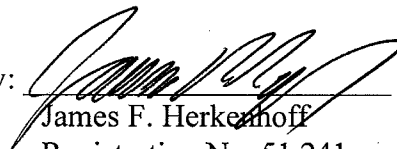
Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: _____

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By: _____



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